IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 302 of 2006 (S/B)

Ashok Kumar Sagar S/o Late Sri Bhikhari Singh,
At present posted as Jailor,
District Jail, Nainital. …… Petitioner

Versus

1. Union of India,
through its Secretary, Personnel,
Ministry of Personnel Public Grievances and Pension,
Department of State Re-organisation,
Lok Nayak Bhawan, 3rd Floor,
Khan Market, New Delhi.
2. Chairman, State Advisory Committee,
Gate No. 31 Jawahar Lal Nehru Stadium,
Lodhi Road, New Delhi.
3. State of Uttar Pradesh through Chief Secretary,
Jail Administration and Reforms Services,
Govt. of Uttar Pradesh, Lucknow.
4. State of Uttaranchal through Chief Secretary,
Jail Administration and Reforms Services,
Govt. of Uttaranchal, Dehradun.
5. Inspector General (Jail / Prison),
Office at 107/1 Race Course, Dehradun,
Uttaranchal Shashan, Dehradun. …… Respondents

Mr. Parikshit Saini, Advocate for the petitioner.
Ms. Anjali Bhargava, Addl. Standing Counsel (Central Govt.) for respondents Nos. 1 & 2.
Ms. Beena Pandey, Standing Counsel (U.P. Govt.) for respondent No. 3.
Ms. Seema Sirohi, Brief Holder for respondents Nos. 4 & 5.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C. J. (ORAL)

Mr. Parikshit Saini, Advocate for the petitioner.

Ms. Anjali Bhargava, Addl. Standing Counsel (Central Govt.) for respondents Nos. 1 & 2.

Ms. Beena Pandey, Standing Counsel (U.P. Govt.) for respondent No.3.

Ms. Seema Sirohi, Brief Holder for respondents Nos. 4 & 5.

They are heard.

2. Petitioner Ashok Kumar Sagar has filed this writ petition for the following reliefs:

> "I. Issue a writ, order or direction in the nature of mandamus commanding the respondents to relieve the petitioner for the State of Uttar Pradesh at a very early date.
>
> II. Issue any other writ, order or direction, which deemed fit and proper under the facts and circumstances of the case in favour of the petitioner.
>
> III. Award the cost of the present writ petition to the petitioner."

3. The petitioner is seeking a direction to the respondents to relieve the petitioner for the State of Uttar Pradesh after his final allocation.

4. Respondent No. 4 State of Uttaranchal, in its counter affidavit, has categorically stated that since the State is short of Jailors and those allocated to the State of Uttaranchal have not been relieved by the State of Uttar Pradesh, it is not practically possible to relieve the petitioner for the present. Along with the counter affidavit, a letter from Inspector General of Prison, Uttaranchal dated 26.10.2006, addressed to petitioner Ashok Kumar Sagar, is also annexed. In the last paragraph of this letter, it has been stated that as soon as any Jailor is relieved by the State of Uttar Pradesh for his joining in the State of Uttaranchal, the petitioner shall also be relieved for the State of Uttar Pradesh on top priority.

5. Thus, it is apparent that the State of Uttaranchal is committed to relieve the petitioner for his joining in the State of Uttar Pradesh after his final allocation. The delay in the relieving of the petitioner is on account of the practical difficulty, which the State of Uttaranchal is facing on account of the paucity of sufficient number of Jailors, as

those allocated to the State of Uttaranchal have not been relieved by the State of Uttar Pradesh for one reason or the other.

6. In this view of the matter, we are of the opinion that any direction to the State of Uttaranchal to relieve the petitioner immediately is bound to create practical difficulty for the State of Uttaranchal in managing the jails situated in the State.

7. We, however, hope that the petitioner shall be relieved for the State of Uttar Pradesh as soon as a Jailor, allocated to the State of Uttaranchal, joins in the State of Uttaranchal after his being relieved from the State of Uttar Pradesh or in the event of recruitment / promotion of sufficient number of Jailors by the State of Uttaranchal.

8. With the above observation, the writ petition stands disposed of.

(J.C.S. Rawat, J.) 19.02.2007

(Rajeev Gupta, C. J.) 19.02.2007

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